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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,592	02/08/2002	George G. Pappas	LUM 163	2727

2555 7590 03/26/2004

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EXAMINER

HECKENBERG JR, DONALD H

ART UNIT PAPER NUMBER

1722

DATE MAILED: 03/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/071,592	Applicant(s) PAPPAS, GEORGE G.	
	Examiner Donald Heckenberg	Art Unit 1722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) 1-11 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-20 is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-20 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on February 8, 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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1. This application is in condition for allowance except for the following formal matters:

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-14, drawn to a method of making a layered candle, classified in class 264 subclass 294.

II. Claims 15-20, drawn to a mold for fabricating a layered candle, classified in class 249, subclass 117.

The inventions are distinct, each from the other because of the following reasons: Inventions Group I and Group II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. MPEP § 806.05(e). In this case the apparatus as claimed could be used to practice another and materially different process such as a process only using one layer of molding material instead of two layers. Further, the apparatus could be used to mold a flat sheet article which would not undergo subsequent rolling into a spiral body.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by

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their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation between Examiner Stephen Lechert and Grank Foster (Applicant's Representative) on February 9, 2004, a provisional election was made with traverse to prosecute the invention of Group II, claims 15-20. Affirmation of this election must be made by applicant in replying to this Office action.

Claims 1-14 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claims 15-20 are allowed. See the reasons for indicating allowable subject matter below.

Because the only issue preventing allowance of the application is the above described restriction requirement, prosecution on the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. A shortened statutory period for reply to this action is set to expire TWO MONTHS from the mailing date of this letter.

2. The following is a statement of reasons for the indication of allowable subject matter:

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The prior art of record fails to teach or suggest a quadrangular elongated mold for fabricating a tapered rolled candle with the combination of features defined in claim 15. The closest prior art is disclosed by Dearth (U.S. Pat. No. 6,371,755). Dearth discloses an quadrangular tapered mold for making candles. Dearth's mold includes opposing side walls longitudinally extending in a non-parallel relationship (see figure 3). However, Dearth fails to teach or suggest one of the sidewalls and one of the endwalls of the mold as being formed at an obtuse angle relative to the bottom of the mold.

3. The following references are cited as being pertinent to the instant application:

British Pat. No. 1 490 547 discloses a mold and method for making spiral candles (see figures 5-6).

German Pub. No. 25 26 023 discloses a method of making candles (see figures 1-4).


4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Heckenberg whose telephone number is (571) 272-1131. The

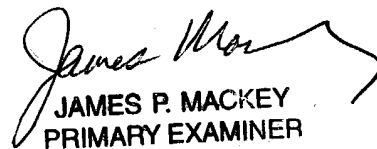
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examiner can normally be reached on Monday through Friday from 9:30 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker, can be reached at (571) 272-1151. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <<<http://pair-direct.uspto.gov>>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).


Donald Heckenberg
March 19, 2004


JAMES P. MACKEY
PRIMARY EXAMINER
3/22/04